

PUBLIC MATTER FILED

JAN 27 2017

**STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES**

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STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:) Case No. 14-O-03616, 15-O-15856,
JAMES DEAGUILERA,) 16-O-10804
No. 166315,) NOTICE OF DISCIPLINARY CHARGES
A Member of the State Bar)

NOTICE - FAILURE TO RESPOND!

**IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE
WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT
THE STATE BAR COURT TRIAL:**

- (1) YOUR DEFAULT WILL BE ENTERED;**
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU
WILL NOT BE PERMITTED TO PRACTICE LAW;**
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION
AND THE DEFAULT IS SET ASIDE, AND;**
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.
SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN
ORDER RECOMMENDING YOUR DISBARMENT WITHOUT
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.**

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. James DeAguilera ("respondent") was admitted to the practice of law in the State of
4 California on December 2, 1993, was a member at all times pertinent to these charges, and is
5 currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 14-O-03616
8 Rules of Professional Conduct, Rule 3-310(C)(1)
[Potential Conflict – Representing Multiple Clients]

9 2. In or around March 2013, Respondent accepted representation of multiple clients,
10 Ann T. Madison and The GrassHopper, Inc., in joint representation to defend against charges in
11 Riverside County Superior Court, case no. INC 1206440, *City of Cathedral vs. The Grasshopper,*
12 *Inc.; James D. Madison; Ann T. Madison; and DOES 1-50* that their use of a certain real
13 property violated state law banning marijuana dispensaries. At the time he accepted their
14 representation, the interests of the clients potentially conflicted in that Ann T. Madison, and The
15 GrassHopper, Inc. were co-defendants in the same matter and Ann T. Madison is the landlord of
16 the property that The GrassHopper, Inc. was renting and using as a tenant. Respondent failed to
17 inform the clients of the relevant circumstances and of the actual and reasonably foreseeable
18 adverse consequences to the clients and failed to obtain the written consent of each client, in
19 willful violation of the Rules of Professional Conduct, rule 3-310(C)(1).

20 COUNT TWO

21 Case No. 14-O-03616
22 Business and Professions Code, section 6106
[Moral Turpitude - Misrepresentation]

23 3. On or about May 1, 2012, Respondent represented to Ann T. Madison that the
24 operation of a marijuana dispensary was legal to induce her to agree to lease her property to a
25 marijuana dispensary, when Respondent knew or was grossly negligent in not knowing the
26 representation was false because marijuana dispensaries were not legal, and thereby committed
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1 an act involving moral turpitude, dishonesty or corruption in willful violation of Business and
2 Professions Code, section 6106.

3 COUNT THREE

4 Case No. 15-O-15856
5 Rules of Professional Conduct, rule 4-100(A)
[Failure to Deposit Client Funds in Trust Account]

6 4. On or about August 6, 2014, Respondent received on behalf of Respondent's client,
7 Carlos Jaramillo, \$50,000 to be held in trust and earmarked as a deposit for the purchase of a
8 medical marijuana dispensary. Respondent did not deposit any part of the funds in client trust
9 account. By failing to deposit \$50,000 in funds received for the benefit of the client in a bank
10 account labeled "Trust Account," "Client's Funds Account" or words of similar import,
11 Respondent wilfully violated Rules of Professional Conduct, rule 4-100(A).

12 COUNT FOUR

13 Case No. 15-O-15856
14 Business and Professions Code, section 6106
[Moral Turpitude - Misappropriation]

15 5. On or about August 6, 2014, Respondent received on behalf of Respondent's client,
16 Carlos Jaramillo, \$50,000 to be held in trust and earmarked as a deposit for the purchase of a
17 medical marijuana dispensary. Of that sum, between on or around September 25, 2015 and on or
18 around October 28, 2015, Respondent dishonestly or grossly negligently misappropriated for
19 Respondent's own purposes approximately \$22,600 that Respondent's client, was entitled to
20 receive, and thereby committed an act involving moral turpitude, dishonesty or corruption in
21 willful violation of Business and Professions Code, section 6106.

22 COUNT FIVE

23 Case No. 15-O-15856
24 Rules of Professional Conduct, rule 4-200(A)
[Unconscionable Fee]

25 6. On or about September 30, 2014, Respondent charged a fee of \$52,985 from his
26 client, Carlos Jaramillo, to perform legal services. The fee was unconscionable for the following
27 reasons, in willful violation of Rules of Professional Conduct, rule 4-200(A): the client did not
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1 provide informed consent to any fees beyond those enumerated in the signed fee agreements,
2 which totaled \$10,000 for all services to be provided by Respondent.

3 COUNT SIX

4 Case No. 15-O-15856
5 Rules of Professional Conduct, rule 3-310(C)(3)
[Actual Conflict - Representing Multiple Clients]

6 7. On or about November 14, 2014, Respondent agreed to represent a new client, Omar
7 Gonzalez in transferring the directorship of Green Star Remedies, Inc., a medical marijuana
8 dispensary, to Gonzalez ("new client") from Carlos Jaramillo. At that time, Respondent had
9 already been representing the interests of Jaramillo ("existing client") in his operations of the
10 medical marijuana dispensary business. The interest of the new client in the existing client's
11 matter was adverse to the existing client because the new client was seeking to assume the
12 directorship of the business from the existing client, and Respondent had conflicting loyalties
13 between the two clients. Respondent accepted the representation of the new client and did not
14 inform both clients of the relevant circumstances and of the actual and reasonably foreseeable
15 adverse consequences to the clients and did not obtain the written consent of each client, and
16 thereby represented a client in a matter and at the same time in a separate matter accepted as a
17 client a person or entity whose interest in the first matter was adverse to the client in the first
18 matter, without the informed written consent of each client, in willful violation of the Rules of
19 Professional Conduct, rule 3-310(C)(3).

20 COUNT SEVEN

21 Case No. 15-O-15856
22 Business and Professions Code, section 6106
[Moral Turpitude - Misrepresentation]

23 8. Between on or about September 25, 2014 and on or about May 18, 2015, Respondent
24 stated in writing to client, Carlos Jaramillo, that:

25 A. The remainder of his \$50,000 was being held and would be used per their
26 agreement for the pending lawsuit and related motions and appeals against the
27 City of Los Angeles;
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1 B. Respondent was still holding \$10,000 in his client trust account for the tenant
2 improvements payment that was owed to the landlord pending Mr. Jaramillo's
3 inspection/agreement that the improvements had been made as described;
4 C. A complaint for declaratory and injunctive relief had been filed on October 1,
5 2014; and
6 D. Mr. Jaramillo's complaint was part of a group of complaints that raised the same
7 legal issues seeking to stop the enforcement of Proposition D and that all other
8 clients agreed to share the costs of litigation.
9 All four statements were false. Respondent knew or was grossly negligent in not knowing each
10 statement was false, and thereby committed an act involving moral turpitude, dishonesty or
11 corruption in willful violation of Business and Professions Code, section 6106.

12 COUNT EIGHT

13 Case No. 16-O-10804
14 Rules of Professional Conduct, rule 3-310(C)(1)
[Potential Conflict - Representing Multiple Clients]

15 9. On or about November 14, 2014, Respondent accepted representation of multiple
16 clients, Rafael Chavez and Makar Ghazaryan, in joint representation in defending an unlawful
17 detainer complaint and filing a complaint for declaratory relief to operate a medical marijuana
18 dispensary on the subject property. At that time Respondent accepted their representation, the
19 interests of the clients potentially conflicted in that Chavez was the lessee of the subject property
20 and Ghazaryan was the sublessee of the subject property, and Ghazaryan may be liable to
21 Chavez for the unlawful detainer. Respondent failed to inform the clients of the relevant
22 circumstances and of the actual and reasonably foreseeable adverse consequences to the clients
23 and failed to obtain the written consent of each client, in willful violation of the Rules of
24 Professional Conduct, rule 3-310(C)(1).

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10. Between on or about October 15, 2014 and on or about June 3, 2015, Respondent received from Respondent's client, Makar Ghazaryan, the sum of \$10,500 as advanced fees for legal assistance in setting up a medical marijuana dispensary and in a criminal matter. Respondent thereafter failed to render an appropriate accounting to the client regarding those funds upon the termination of Respondent's employment on or about December 30, 2015, despite a request on or about January 19, 2016, by Mr. Ghazaryan's new attorney, Joseph Benincasa, in willful violation of the Rules of Professional Conduct, rule 4-100(B)(3).

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11. On or about November 14, 2014, Respondent received advanced fees of \$5,000 from a client, Makar Ghazaryan, to file a complaint for declaratory and injunctive relief and to represent him in an unlawful detainer associated with setting up a medical marijuana dispensary. Respondent failed to file the complaint for declaratory relief, or perform any legal services for which he was hired, and therefore earned none of the advanced fees. Respondent failed to refund promptly, upon Respondent's termination of employment on or about December 30, 2015, any part of the \$5,000 fee to the client, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

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12. Respondent failed to release promptly, after termination of Respondent's employment on or about December 30, 2015, to Respondent's client, Makar Ghazaryan, all of the client's papers and property following the client's request for the client's file on or about January 19, 2016, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

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NOTICE - INACTIVE ENROLLMENT!

YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT.


NOTICE - COST ASSESSMENT!

IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF CHIEF TRIAL COUNSEL

DATED: 1-27-17

By: 
Elizabeth Stone
Deputy Trial Counsel

DECLARATION OF SERVICE

by
U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 14-O-03616; 15-O-15856; 16-O-10804

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES

☐

By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of Los Angeles.

☒

By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))

☐

By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ('UPS').

☐

By Fax Transmission: (CCP §§ 1013(e) and 1013(f))

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.

☐

By Electronic Service: (CCP § 1010.6)

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐

(for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: (see below)

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(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested,

Article No.: 9414 7266 9904 2010 0824 08 at Los Angeles, addressed to: (see below)

☐

(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS,

Tracking No.: addressed to: (see below)

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
ANTHONY P. RADOGNA	LAW OFFICES OF ANTHONY RADOGNA 1 PARK PLZ, STE 600 IRVINE, CA 92614-5987	Electronic Address	radognalawoffice@gmail.com

☐

via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ('UPS'). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: January 27, 2017

SIGNED:


NATALIE FLORES
Declarant